

WINTER 2005

SPECIAL LEGISLATIVE ISSUE

The Tribal Update is a quarterly publication of the Montana Department of Public Health and Human Services. It is distributed to leaders of all eight state and federally recognized tribes, as well as other interested parties.

Alternative accessible formats of this newsletter will be provided upon request. For further information or additional copies, contact Gayle Shirley, DPHHS Public Information Officer, at 406-444-2596 or gshirley@mt.gov.

This and previous issues are also available online at dphhs.mt.gov.

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MEET THE NEW DPHHS DIRECTOR



Governor Brian Schweitzer has appointed Dr. Robert Wynia as the new director of DPHHS. He previously worked as a senior airman medical

examiner for the Federal Aviation Administration. He also had a private internal medicine practice in Great Falls. He graduated from the University of Washington medical school and is past president of the Montana Medical Association.

He replaces Gail Gray, who has retired from state government.

DEPARTMENT OF PUBLIC HEALTH & HUMAN SERVICES

TRIBAL UPDATE



DPHHS Takes 30 Bills to 2005 Session, Some Directly Impact Tribal Nations

The Montana Department of Public Health and Human Services has proposed 30 bills to the 2005 Legislature, which convened January 3 and will adjourn by April 25. Two—House Bill 80 and Senate Bill 86—specifically impact the tribal nations.

To find out the status of these or any bills, please visit the Legislature's Web site at www.leg.mt.gov. The following bill descriptions list their status as of January 31.

HB 80

Allow the Child Support Enforcement Division to interact with tribal IV-D programs. This bill would revise laws relating to the enforcement of child support to clearly acknowledge the participation of tribal nations that have established their own child support agencies under Title IV-D of the federal Social Security Act. The bill does not require any tribe to establish its own child support system. However, the bill would change the language of the law to ensure that any tribe that does have its own system would clearly be part of the overall system, just like any other state.

Sponsor: Rep. Margaret Campbell

Status: Passed House, sent to Senate

SB 86

Define terms for implementation of the federal Indian Child Welfare Act.

This bill provides guidance to county attorneys and state district court judges as to the nature of testimony that may be offered by qualified expert witnesses under the Indian Child Welfare Act.

Qualified expert witnesses are called upon to testify to the emotional and physical impact that placement of a child might have, taking into account tribal culture and values.

The bill also allows DPHHS to share confidential information with qualified expert witnesses, and it defines the terms "Indian child," "Indian tribe," and "Indian custodian" so that they are consistent with the definitions in the Indian

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Child Welfare Act.

Sponsor: Sen. Frank Smith

Status: Passed Senate, sent to House

HB 32

Revise vital statistics statutes. This bill would eliminate conflicts in vital records statutes. It would eliminate the requirement that local registrars retain certificate copies if certificates are filed electronically, and it would allow a new birth certificate to be issued for a foreign person adopted in Montana regardless of citizenship.

Sponsor: Rep. Jill Cohenour

Status: Passed House, sent to Senate

HB 88

Eliminate requirement for universal application form for children's health programs. This bill would repeal a law requiring the department to use a universal application form and process to determine eligibility for children to receive certain health insurance, including that provided under the Children's Health Insurance Plan (CHIP), as well as certain other medical assistance or benefits.

Sponsor: Rep. Mary Caferro

Status: Passed House, sent to Senate

HB 117

Provide flexibility in establishing asset transfer look-back and penalty periods in determining eligibility for Medicaid.

This bill would give the director of the department discretion to seek waivers of federal law concerning ineligibility for Medicaid long-term care in situations where an applicant or recipient or his/her spouse disposes of assets for less than fair market value in order to qualify for benefits.

Sponsor: Rep. Tom McGillvray

Status: Pending action in House Human Services Committee

HB 127

Revise definition of "seriously developmentally disabled."

This bill would amend the legal definition of "seriously developmentally disabled" for the purposes of civil commitment. It would remove the criterion of near total care.

Sponsor: Rep. Scott Mendenhall

Status: Passed House, sent to Senate

HB 183

Medicaid waiver proposal affecting seriously emotionally disturbed children. This bill would allow the department to seek a federal Home and Community-based Services Waiver of the Medicaid state plan to increase flexibility in providing services for seriously emotionally disturbed children.

Sponsor: Rep. Eve Franklin

Status: Passed by House Human Services Committee

HB 196

Power of attorney fiduciary notice. This bill would spell out the fiduciary responsibility of an agent to a principal in the statutory form used to create power of attorney.

Sponsor: Rep. Joey Jayne

Status: Passed House, sent to Senate

HB 197

Increase elder abuse penalties. This bill would amend the Montana Elder and Persons with Developmental Disabilities Abuse Prevention Act, making it a felony to purposely or knowingly abuse, sexually abuse, or neglect an older person or a person with a developmental disability. It would also make it a misdemeanor for a first offense of negligently abusing or neglecting such a person.

Sponsor: Rep. Joey Jayne

Status: Pending action in House Judiciary Committee

HB 216

Revise laws concerning child support. This bill would revise the laws regarding the child support enforcement program to improve efficiency and effectiveness. It would:

- Clarify access by the department to a party's financial and employment records;
- Allow the department to establish a medical support order independent of a child support order;
- Extend the life of a warrant for distraint from 90 to 120 days;
- Allow an agreement for service by electronic means of an order requiring enrollment;
- Provide priority for withholding child support and medical support; and
- Allow attachment of crime victims compensation for the payment or maintenance of child support.

Sponsor: Rep. Mary Caferro

Status: Passed House, sent to Senate

SB 33

Eliminate unified budget requirement for Interagency Coordinating Council. This bill would delete a statutory requirement that the Interagency Coordinating Council for State Prevention Programs prepare and present a unified budget to the Legislature.

Sponsor: Sen. John Cobb

Status: Passed Senate, sent to House

SB 41

Medicaid funding principles. This bill would require the department and the Legislature to consider the following funding principles when considering changes in Medicaid policy or reduction in services:

- Protect those persons who are most vulnerable and most in need, as defined by a combination of economic security and medical circumstances.
- Give preference to the elimination of an entire Medicaid

program or service rather than sacrificing the quality of care for several programs or services by diluting funding.

- Give priority to retaining services that protect life, alleviate severe pain, and prevent significant disability.

Sponsor: Sen. Bob Keenan

Status: Rereferred to Senate Finance & Claims Committee

SB 42

Clarify system of care and service area authority for children's mental health. This bill would clarify and reconcile the duties of the Children's System of Care Planning Committee and a Service Area Authority Board for the development of policies, plans, and budgets for the delivery of mental health services to children.

Sponsor: Sen. Bob Keenan

Status: Passed Senate, sent to House

SB 49

Revise confidentiality laws as they relate to child protective services. This bill would waive the confidentiality rights of a person responsible for a child's welfare if that person makes public statements regarding any child abuse or neglect action involving the child. It would allow the department to respond to public statements with fact-specific information regarding the case.

Sponsor: Sen. Dan McGee

Status: Killed by Senate

SB 52

Preadmission screening authority for the Montana State Hospital. This bill would require prior authorization for emergency detention at the Montana State Hospital for adults with serious mental illnesses. It would also provide for the development of local plans to prevent inappropriate admissions to the state hospital.

Sponsor: Sen. Bob Keenan

Status: Pending action in Senate Health, Welfare & Safety Committee

SB 60

Revise limitation on critical-access hospital beds. This bill would allow the department to adopt by administrative rule the number of beds that a critical-access hospital may have, not to exceed the number allowed by federal law. It also would eliminate the limit on the number of acute-care inpatient beds that a critical-access hospital may have.

Sponsor: Sen. John Esp

Status: Passed Senate, referred to House Human Services Committee

SB 71

Extend use of tobacco settlement money for health and human services. This bill would permanently put into law temporary provisions enacted by the 58th Montana Legislature to allow the use of tobacco settlement money to fund health and human services programs administered by the department. It would require an ongoing transfer from a state special

revenue account to the prevention and stabilization account.

Sponsor: Sen. John Cobb

Status: Rereferred to Senate Health, Welfare & Safety Committee

SB 82

Revise definition of "intermediate care facility" for purposes of the utilization fee on resident bed days. The bill would revise the definition of "intermediate care facility" to include facilities for the mentally retarded that are in compliance with the federal standards for Medicaid participation. The law currently covers licensed intermediate care facilities for the developmentally disabled. The bill would also increase the utilization fee from 5 to 6 percent.

Sponsor: Sen. John Cobb

Status: Passed Senate, sent to House

SB 94

Revise service of process in child protective service cases.

This bill would amend the requirements for service of process under laws relating to child abuse and neglect cases. It would allow county attorneys' offices more flexibility in the method they choose to serve some petitions.

Sponsor: Sen. Brent Cromley

Status: Passed Senate, sent to House

SB 101

Require registration of youth residential therapeutic programs. This bill would define "residential therapeutic schools or programs" and provide for their registration. It also would provide for the calculation of school funding and tuition and transportation rates for students of residential therapeutic schools or programs, and it would require the department to develop and present recommendations on licensure to the 2007 Legislature.

Sponsor: Sen. Trudi Schmidt

Status: Pending action in Senate Health, Welfare & Safety Committee

SB 110

Medicaid HIFA and 1115 demonstration waiver authority.

This bill would implement certain recommendations of the Montana Public Health Advisory Council to provide for improved coverage of the health care and related needs of particular groups of individuals. It would authorize Health Insurance Flexibility and Accountability (HIFA) demonstration initiatives and other demonstration projects if and when specific federal Medicaid laws are waived.

Sponsor: Sen. John Cobb

Status: Passed by Senate Health, Welfare & Safety Committee

SB 112

Revise guardianship law. This bill would authorize a full guardian to petition for a dissolution of marriage or legal

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separation on behalf of the ward. It also would require a district court to hold a hearing to determine whether the dissolution would be in the ward's best interest.

Sponsor: Sen. Dan Harrington

Status: Passed by Senate Health, Welfare & Safety Committee

SB 113

Clarify county attorneys' responsibility for guardianship.

This bill would require county attorneys to petition for guardianship of incapacitated individuals at the request of the department.

Sponsor: Sen. Dan Harrington

Status: Tabled by Senate Health, Welfare & Safety Committee

SB 119

Revise child protective service laws. This bill would revise laws related to child protective services and adoption to comply with federal regulations and an attorney general's opinion. It would clarify who may be appointed as a guardian ad litem, and it would authorize a foster care review committee or a citizen review board to conduct a permanency hearing subject to approval by a court.

Sponsor: Sen. Trudi Schmidt

Status: Passed by Senate Health, Welfare & Safety Committee

SB 120

Make permanent a hospital tax on inpatient days. This bill would revise and extend the utilization fee on hospital facilities for inpatient bed days. It clarifies that critical-access facilities are included in the definition of "hospital."

Sponsor: Sen. Bob Keenan

Status: Passed Senate, sent to House

SB 121

Revise laws governing charges by the Montana State

Hospital for care of individuals convicted of crimes. This bill would allow the department to charge residents of Montana State Hospital and certain other institutions for care provided at those institutions if the residents were sent to the institutions after being found not guilty of a criminal violation by reason of mental defect. Current state law requires the department to pay for care in such cases.

Sponsor: Sen. Bob Keenan

Status: Passed Senate, sent to House

SB 127

Medicaid home and community-based services. This bill would facilitate the implementation of certain recommendations of the Montana Public Health Advisory Council regarding home and community-based services funded through Medicaid.

The bill would:

- Authorize preadmission screening of individuals needing long-term care, as well as annual reviews of their status;
- Remove an inappropriate application of Medicaid state plan authority to home and community-based services; and
- Require home and community-based services to report the cost of care for individuals living in assisted living facilities.

Sponsor: Sen. Bob Keenan

Status: Passed second reading in Senate

SB 137

License tattoo and body-piercing businesses. This bill would allow the department and local boards of health to license and regulate tattoo and body-piercing establishments. It would:

- Grant rulemaking authority regarding standards for sanitation and safety, licensing, and enforcement procedures;
- Provide for injunctions, civil actions, prosecution, and civil and criminal penalties for violations of tattoo and body-piercing laws;
- Provide for the denial and cancellation of licenses;
- Provide for inspections and investigations by health authorities; and
- Create an account in the state special revenue fund for the department to use in administering the laws.

Sponsor: Sen. Dave Lewis

Status: Rereferred to Senate Health, Welfare & Safety Committee

SB 139

Review and modification of child support orders. This bill would eliminate the requirement that the Child Support Enforcement Division register Montana district court child support orders with the department before beginning the administrative modification process. It also would:

- Clarify the criteria for reviewing support orders in the absence of substantial changes of circumstances;
- Clarify the remedy if a party refuses to produce the requested financial information; and
- Eliminate a mandatory mediation session and certain service of process requirements.

Sponsor: Sen. John Esp

Status: Passed Senate, sent to House

SB 150

Cost-sharing for community-based Medicaid services. This bill would authorize the department to require recipients of community-based Medicaid services to share in the cost of those services based on their ability to pay.

Sponsor: Sen. Bob Keenan

Status: Passed Senate, sent to House

